
OPINION OF THE PUBLIC ACCESS COUNSELOR

MARK H. ALESIA,
Complainant,

v.

MONROE COUNTY COMMUNITY SCHOOL CORP.,
Respondent.

Formal Complaint No.
23-FC-55

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging the Monroe County School Corporation violated the Access to Public Records Act.¹ Attorney Thomas Bunger and Kathryn E. DeWeese filed an answer on behalf of the school corporation. In accordance with Indiana Code

¹ Ind. Code § 5-14-3-1-10.

§ 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on June 27, 2023.

BACKGROUND

This case involves a dispute over the length of time taken by Monroe County Community School Corporation (School) to respond to a public records request.

On April 21, 2023, Mark Alesia (Complainant), a reporter for RawStory, filed a public records request with the School seeking a series of emails to a single account as well as any paper correspondence to a named individual for a timeframe of nine days. While a singular subject matter was not included, a list of keywords provided context clues as to what Alesia was seeking.

The School acknowledged the request, however, more than 60 days elapsed without any progress. As a result, Alesia filed a formal complaint on June 27, 2023.

For its part, the School responded on July 21, 2023, providing that it had fulfilled three of the six requests sent by Alesia since the complaint was submitted to this office. Alesia verified as much. Nonetheless, he remains concerned about the response time compared to other school corporations.

The School contends there were multiple hundreds of documents to review.

ANALYSIS

1. The Access to Public Records Act

The Access to Public Records Act (APRA) states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. Monroe County School Corporation is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the School’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

2. Reasonable timeliness & reasonable particularity

Alesia seeks a set of emails that may or may not exist. Indeed, this office has been quite vocal regarding requests for emails and the specificity required for a sound public records request. However, those are just practical guidelines and not an absolute list of required criteria.

For example, this office has continued to develop the standard for what is a reasonably particular request for email messages:

1. Sender;

2. Recipient;
3. Reasonable timeframe (e.g., six months or less); and
4. Particularized subject matter or set of search terms.

APRA's reasonable particularity standard is there to avoid sifting through huge open-ended email requests, which would—or at least could—yield an inordinate amount of material.

Here, however, Alesia was significantly more compact in some respects than others. A 9-day time period with a single recipient should not be difficult to curate, review, and disclose. Similar requests scrutinized by this office have been honored and it appears Alesia's requests to other schools have been fulfilled.

It is important for public agencies not to get swept up in the minutia. While Alesia's keywords contain some universal terms ("teacher," "parents," "context," "child," etc.), the context of his request is fairly obvious. He seeks emails regarding allegedly culturally or socially controversial topics sparked by a specific video produced by a conservative news website.

The better practice would have been for the School to further engage Alesia in the beginning, asking him to pare down the scope of his request to a manageable degree, or to at least clarify the relevant subject matters. Instead, he was left to wait several months until he felt he had no option but to file his complaint, and rightfully so.

By the same token, it is not the expectation of this office that a public agency needs to comb through communication with a generic keyword search. Toward that end, the School would be well served to recognize the request as greater than the sum of its parts and proceed accordingly.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Monroe County Community School Corporation should have invited Alesia to clarify the scope of his initial request instead of waiting several months to curate correspondence, which may or may not have been germane to the request.

Nevertheless, this office is hopeful that the records have now been provided pursuant to Alesia's response.



Luke H. Britt
Public Access Counselor

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